



**UNITED STATES DEPARTMENT OF COMMERCE  
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VB

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/341,048	08/09/99	SAVION	N 0744/077

002779 HM12/0118  
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EXAMINER

FAY, Z

ART UNIT

PAPER NUMBER

1614

7

DATE MAILED:

01/18/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trad marks**

# Office Action Summary

Application No.  
**09/341,048**

Applicant(s)

Savion

Examiner

Zohreh Fay

Group Art Unit

1614



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 72-111 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 72-78 and 105 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 79-104 and 106-111 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit:

Claims 72-107 are presented for examination.

Claims 72-78 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for certain disorders of the anterior segment of the eye, does not reasonably provide enablement for the broad phrase of "disorders of the anterior segment of the eye". The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims. The instant specification does not provide support or guidance to treat all the disorders of the anterior segment of the eye. Without such information one skilled in the art would be required to perform undue experimentation to use the claimed compounds for the treatment of numerous disorders of anterior segment of the eye.

Claim 105 contains the trademark/tradename Lipofundin and intralipid. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirement of 35 U.S.C. second paragraph.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims ~~71~~ and ~~73~~ are rejected under 35 U.S.C. 102 (b) as being anticipated by WO 94/04178.

The WO patent teaches the use of ApoE as an antiproliferative agent used for the treatment of ophthalmic neovascularization disorders.

Art Unit:

The remaining claims are considered allowable to the extent that they read on the elected subject matter. Applicant is requested to elect another specie for examination purpose.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Fay whose telephone number is (703) 308-4604.

ZOHREN FAY  
PRIMARY EXAMINER  
GROUP 1200



Z.F

January 16, 2001